



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9434-01-OMS]

Report on Environmental Protection Agency Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Act Provisions of the Infrastructure Investment and Jobs Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is publishing a report on EPA Federal financial assistance infrastructure programs subject to the Build America, Buy America Act Provisions of the Infrastructure Investment and Jobs Act (EPA BABAA Report). This report is available at <https://www.epa.gov/grants/epas-identification-federal-financial-assistance-infrastructure-programs-subject-build> and will be updated as additional information becomes available. Members of the public who are unable to access the EPA BABAA Report at <https://www.epa.gov/grants/epas-identification-federal-financial-assistance-infrastructure-programs-subject-build> may request a copy of the most current version of the report from EPA's Information Contact identified below.

DATES: The EPA BABAA Report will be available to the public on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT:

EPA's National Policy Training and Compliance Division (Attention: Suzanne Hersh) at EPA_Grants_Info@epa.gov or (202) 564-3361

SUPPLEMENTARY INFORMATION: Consistent with the policy direction of Executive Order 14005: Ensuring the Future is Made in All of America By All of America's Workers, Title IX of Infrastructure Investment and Jobs Act (IIJA): Build America, Buy America Act (BABAA) imposes new, government-wide domestic content procurement preference

requirements on all federally-funded infrastructure projects—whether or not funded through IIJA. Section 70913(a) of IIJA requires each agency covered by BABAA to submit a report to the Office of Management and Budget (OMB) and Congress that will be published in the *Federal Register*. As provided in section 70913(b) of IIJA this report must:

- (1) identify all domestic content procurement preferences applicable to EPA’s Federal financial assistance programs for infrastructure.
- (2) assess the applicability of domestic content procurement preference requirements in certain specified statutes of which section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1388), section 1452(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(4)) and section 5035 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3914) are applicable to EPA.
- (3) assess the applicability of any other domestic content procurement preference requirement included in an appropriations Act or other Federal laws (including regulations) to an EPA Federal financial assistance program for infrastructure.
- (4) provide details on any domestic content procurement preference requirement applicable to an EPA Federal financial assistance program for infrastructure, including the purpose, scope, applicability, and any exceptions and waivers issued under the requirement.
- (5) include a description of the type of infrastructure projects that receive funding under the program, including information relating to—
 - (A) the number of entities that are participating in the program;
 - (B) the amount of Federal funds that are made available for the program for each fiscal year; and
 - (C) any other information EPA’s Administrator determines to be relevant.

Section 70913(c) of IIJA requires that the report include a list of “Deficient Programs” which identifies EPA’s financial assistance programs for infrastructure (as defined in section 70912(5) of IIJA) for which a domestic content procurement preference requirement does not apply in a

manner consistent with section 70914 of IIJA or is subject to a waiver of general applicability not limited to the use of specific products for use in a specific project. Section 70914 generally requires that all the iron, steel, manufactured products, and construction materials used in projects receiving EPA financial assistance for infrastructure be produced in the United States unless EPA provides a waiver of the requirement or application of the requirement would be inconsistent with the United States' obligations under international agreements.

The EPA BABA Report available at <https://www.epa.gov/grants/epas-identification-federal-financial-assistance-infrastructure-programs-subject-build> meets the requirements of section 70913 but will be updated as additional information becomes available.

Lynnann Hitchens,

Acting Principal Deputy Assistant Administrator,

Office of Mission Support.